

HOUSE BILL REPORT

EHB 3230

As Passed House:
February 18, 2008

Title: An act relating to public notification and hearing requirements for permits issued under the shoreline management act.

Brief Description: Changing the public notification and hearing requirements for permits issued under the shoreline management act.

Sponsors: By Representatives Conway, Darneille and Flannigan.

Brief History:

Committee Activity:

Local Government: 2/1/08, 2/4/08 [DP].

Floor Activity:

Passed House: 2/18/08, 95-0.

Brief Summary of Engrossed Bill

- Requires local governments to notify the public of permit applications under the Shoreline Management Act through mailings, on-site postings, and other methods deemed appropriate.
- Specifies new notice and public hearing requirements for proposals and permit applications to construct or alter a facility that performs or is likely to perform certain actions for large marine vessels.
- Defines "large marine vessels" as marine vessels that are 75 feet or more in length.

HOUSE COMMITTEE ON LOCAL GOVERNMENT

Majority Report: Do pass. Signed by 7 members: Representatives Simpson, Chair; Takko, Vice Chair; Warnick, Ranking Minority Member; Schindler, Assistant Ranking Minority Member; Eddy, Nelson and Schmick.

Staff: Ethan Moreno (786-7386).

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Background:

The Shoreline Management Act (SMA or Act) governs uses of state shorelines. The SMA enunciates state policy to provide for shoreline management by planning for and fostering "all reasonable and appropriate uses." The SMA prioritizes public shoreline access and enjoyment and creates preference criteria listed in prioritized order that must be used by state and local governments in regulating shoreline uses.

The SMA involves a cooperative regulatory approach between local governments and the state. At the local level, SMA regulations are developed in local shoreline master programs (master programs). All counties and cities with shorelines of the state are required to adopt master programs that regulate land use activities in shoreline areas of the state. Counties and cities are also required to enforce their master programs within their jurisdictions. Master programs must be consistent with guidelines adopted by the Department of Ecology (DOE), and the programs, and segments of or amendments to, become effective when approved by the DOE.

Each local government must establish a program for the administration and enforcement of a shoreline permit system. While the SMA specifies standards for counties and cities to review and approve permit applications, the administration of the permit system is performed exclusively by the local government. Counties and cities are also required to notify the DOE of all permit decisions under the SMA.

The SMA requires property owners or developers to obtain substantial development permits for qualifying developments within shorelines areas. "Substantial developments" are defined to include both developments with total cost or fair market value exceeding \$5,000, or other amount as adjusted for inflation, and developments materially interfering with normal public shoreline use.

With some exceptions, local governments must notify the public of all applications for permits under the SMA. Notice of applications must be given by at least one of the following methods:

- mailing of the notice to the latest recorded real property owners within at least 300 feet of the boundary of the property upon which the substantial development is proposed;
- posting of the notice in a conspicuous manner on the property upon which the project is to be constructed; or
- any other manner deemed appropriate by the local government to accomplish the objectives of reasonable notice to adjacent landowners and the public.

The notices must include a statement that a person desiring to submit written comments concerning an application, or desiring to receive notification of the final decision concerning an application, may submit the comments or requests for decisions to the local government within a specified time frame. Local governments are obligated to forward, in a timely manner following the issuance of a decision, copies of application decisions to persons requesting them.

If a public hearing is to be held on an application, notices of the hearing must include a statement that any person may submit oral or written comments on an application at the hearing.

Summary of Engrossed Bill:

Local governments must notify the public of permit applications under the SMA through three rather than one of three, general methods. The notification methods are as follows:

- mailing notices to property owners who own property within at least 300 feet of the property upon which the substantial development is proposed;
- posting notice in a conspicuous manner on the property upon which the project is to be constructed; and
- using any other manner deemed appropriate by the local government to accomplish the objectives of reasonable notice to adjacent landowners and the public.

If the proposal is for the construction or alteration of a facility that performs or is likely to perform any of the following actions for large marine vessels, the local government must, within five days, mail notice of the proposal to property owners within at least 1,000 feet of the boundary of the property upon which the substantial development is proposed: construction, refurbishment, maintenance, repair, lay berthing, or demolition.

Similarly, if the permit application is for the construction or alteration of a facility that performs or is likely to perform any of the following actions for large marine vessels, the local government must hold a public hearing on the application: construction, refurbishment, maintenance, repair, lay berthing, or demolition. Public hearings held to comply with this requirement must be held at least 30 days before the local government determines that the permit application is complete.

"Large marine vessels" are defined as marine vessels that are 75 feet or more in length.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony:

(In support) This bill relates to an issue in the 27th Legislative District. One of the great new developments in the district is the revitalization of the Schuster Parkway. A Chinese reconciliation park has been constructed along this waterfront area with public dollars, yet a shipyard next to the park is seeking to expand its work on mothballed ships. If the permits for the expansion are granted, the shipyard's actions will create environmental problems and

affect the shoreline view. The public would like to have more information and a stronger voice in the permitting processes of the SMA. This bill creates new public involvement measures in the SMA. The bill should be modified to include provisions for lay-berthing, the action that is occurring in Tacoma. The bill should also be modified to include a five-day notice provision and to specify that public hearings must be held before the outcome of a permit application is determined.

(Opposed) None.

Persons Testifying: Representative Darnielle; David Riefmann; and Eugene Wiegman.

Persons Signed In To Testify But Not Testifying: None.